

In the Matter Of:

LTL Management LLC Bankruptcy

JAMES MURDICA

April 16, 2023



<p style="text-align: right;">Page 1</p> <p>1 UNITED STATES BANKRUPTCY COURT</p> <p>2 DISTRICT OF NEW JERSEY</p> <p>3</p> <p>4 In Re: Chapter 11)</p> <p>5) Case No. 21-30589</p> <p>6 LTL MANAGEMENT, LLC,) (MBK)</p> <p>7)</p> <p>8 Debtor.)</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13 VIDEO RECORDED EXAMINATION OF</p> <p>14 JAMES MURDICA</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23 CERTIFIED STENOGRAPHER:</p> <p>24 JESSIE WAACK, RDR, CRR, CCRR, NYRCR, NYACR,</p> <p>25 CCR-NJ (No. 30XI008238700) CSR-TX (No. 11958)</p> <p>CCR-WA (No. 21007264), CSR-CA (No. 14420),</p> <p>REALTIME SYSTEMS ADMINISTRATOR</p> <p>JOB NO.: 893549</p>	<p style="text-align: right;">Page 3</p> <p>1 A P P E A R A N C E S</p> <p>2</p> <p>3 FOR OFFICIAL COMMITTEE OF TALC CLAIMANTS I:</p> <p>4 BROWN RUDNICK LLP</p> <p>5 BY: MICHAEL WINOGRAD, ESQ.</p> <p>6 BY: JENNIFER SCHEIN, ESQ.</p> <p>7 BY: DAVID J. MOLTON, ESQ. (Remote)</p> <p>8 BY: JEFF JONAS, ESQ. (Remote)</p> <p>9 BY: ERIC R. GOODMAN, ESQ. (Remote)</p> <p>10 7 Times Square</p> <p>11 New York, New York 10036</p> <p>12 PHONE: 212-209-4917</p> <p>13 EMAIL: Mwinograd@brownrudnick.com</p> <p>14</p> <p>15 ON BEHALF OF THE DEBTOR LTL AND WITNESS:</p> <p>16 SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP</p> <p>17 BY: ALLISON M. BROWN, ESQ.</p> <p>18 One Manhattan West</p> <p>19 New York, New York 10001-8602</p> <p>20 PHONE: 212-735-3222</p> <p>21 EMAIL: Allison.brown@skadden.com</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 2</p> <p>1</p> <p>2</p> <p>3 VIDEO RECORDED EXAMINATION of</p> <p>4 JAMES MURDICA, taken before JESSICA R. WAACK,</p> <p>5 Registered Professional Reporter, Registered</p> <p>6 Merit Reporter, Certified Realtime Reporter,</p> <p>7 Registered Diplomat Reporter, California</p> <p>8 Certified Realtime Reporter, New Jersey</p> <p>9 Certified Court Reporter (License No.</p> <p>10 30XI008238700); Texas Certified Shorthand</p> <p>11 Reporter (License No. 11958); Washington</p> <p>12 State Certified Court Reporter (License No.</p> <p>13 21007264); California Certified Shorthand</p> <p>14 Reporter (License No. 14420); New York</p> <p>15 Association Certified Reporter, New York</p> <p>16 Realtime Court Reporter and Notary Public of</p> <p>17 Washington, D.C. and the States of New York,</p> <p>18 Pennsylvania, Delaware, Maryland and</p> <p>19 Virginia, at Skadden, Arps, Slate, Meagher &</p> <p>20 Flom, LLP, One Manhattan West, New York, New</p> <p>21 York, on Sunday, April 16, 2023, commencing</p> <p>22 at 1:26 p.m. and concluding at 6:32 p.m.</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 4</p> <p>1 A P P E A R A N C E S</p> <p>2</p> <p>3 REMOTELY ON BEHALF OF JOHNSON & JOHNSON:</p> <p>4 WHITE & CASE LLP</p> <p>5 BY: JOSHUA WEEDMAN, ESQ.</p> <p>6 BY: KRISTIN SCHULTZ, ESQ.</p> <p>7 BY: MATT LINDER, ESQ.</p> <p>8 BY: GREG STARNER, ESQ. (In person)</p> <p>9 1221 Avenue of the Americas</p> <p>10 New York, New York 10020-1095</p> <p>11 PHONE: 212-819-8963</p> <p>12 EMAIL: Jweedman@whitecase.com</p> <p>13</p> <p>14 ON BEHALF OF VARIOUS TALC CLAIMANTS:</p> <p>15 LEVY KONIGSBERG</p> <p>16 BY: MOSHE MAIMAN, ESQ.</p> <p>17 BY: JERRY BLOCK, ESQ. (Remote)</p> <p>18 605 3rd Avenue, 33rd Floor</p> <p>19 New York, New York 10158</p> <p>20 PHONE: 800-315-3806</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

<p style="text-align: right;">Page 33</p> <p>1 going to object and instruct you if</p> <p>2 that knowledge is from conversations</p> <p>3 with counsel, not to reveal. That's</p> <p>4 privileged.</p> <p>5 BY MR. WINOGRAD:</p> <p>6 Q. I'm not asking for any substance.</p> <p>7 I'm asking, do you know?</p> <p>8 A. I'll make it easy. I do not</p> <p>9 know.</p> <p>10 MR. WINOGRAD: Can we grab Tab B</p> <p>11 as in boy.</p> <p>12 Lexitas, if you can pull up</p> <p>13 Tab B.</p> <p>14 (Whereupon, Exhibit 2 is marked</p> <p>15 for identification.)</p> <p>16 MR. MAIMAN: Can you put up the</p> <p>17 exhibits on the screen?</p> <p>18 THE STENOGRAPHER: Juan, do you</p> <p>19 have the exhibits? It's the</p> <p>20 stenographer.</p> <p>21 ZOOM OPERATOR: I put a link in</p> <p>22 the chat where you can download the</p> <p>23 exhibits.</p> <p>24 MR. WINOGRAD: Okay. Thanks.</p> <p>25 MR. SATTERLEY: That should be</p>	<p style="text-align: right;">Page 35</p> <p>1 Do you see that?</p> <p>2 A. Yes.</p> <p>3 Q. And have you seen this document</p> <p>4 before?</p> <p>5 A. I have.</p> <p>6 Q. Okay. Did you -- and this is a</p> <p>7 similar chart to what we just looked at,</p> <p>8 correct?</p> <p>9 A. It looks similar.</p> <p>10 Q. But there are --</p> <p>11 A. There are less names.</p> <p>12 Q. Correct.</p> <p>13 A. Yes.</p> <p>14 Q. And did you have any role in</p> <p>15 preparing this chart?</p> <p>16 A. I did.</p> <p>17 Q. And what was your role in</p> <p>18 preparing the chart?</p> <p>19 A. I was asked who had the most</p> <p>20 claims in the litigation as I understood</p> <p>21 it, and that is what became of this chart.</p> <p>22 Q. And what information did you</p> <p>23 provide in response to that question?</p> <p>24 A. Just a list of names.</p> <p>25 Q. And when you say the list of</p>
<p style="text-align: right;">Page 34</p> <p>1 fine.</p> <p>2 MS. SCHEIN: The marked ones?</p> <p>3 MR. WINOGRAD: Just put them,</p> <p>4 please, not all at once. You just need</p> <p>5 to go exhibit by exhibit.</p> <p>6 ZOOM OPERATOR: Correct, correct.</p> <p>7 I'm only putting the ones you called.</p> <p>8 MR. WINOGRAD: Thank you.</p> <p>9 ZOOM OPERATOR: You're welcome.</p> <p>10 BY MR. WINOGRAD:</p> <p>11 Q. Mr. Murdica, you've now been</p> <p>12 handed, I believe, what's been marked as</p> <p>13 Exhibit 2.</p> <p>14 A. Yes.</p> <p>15 Q. Have you seen this document</p> <p>16 before?</p> <p>17 A. I think it was a deposition</p> <p>18 exhibit, and I see it's dated 2023. And</p> <p>19 I'm guessing we're going to go look at</p> <p>20 another list.</p> <p>21 Q. Exactly. So if you could open it</p> <p>22 up to page 18 of 24, that's ECF page 18 --</p> <p>23 A. Yes.</p> <p>24 Q. -- you'll see again a list of law</p> <p>25 firms.</p>	<p style="text-align: right;">Page 36</p> <p>1 names, what list of names are you referring</p> <p>2 to?</p> <p>3 A. List of firms.</p> <p>4 Q. So you provided a list of firms</p> <p>5 that, to your knowledge, had talc claims --</p> <p>6 I'm sorry, strike that.</p> <p>7 Did you provide a list of law</p> <p>8 firm names that, to your knowledge,</p> <p>9 represented talc claimants?</p> <p>10 A. I provided a list of law firm</p> <p>11 names that, to my knowledge, represented</p> <p>12 the most talc claimants by number.</p> <p>13 Q. And we're gonna talk about that</p> <p>14 in a little bit.</p> <p>15 And did you actually draft this</p> <p>16 chart?</p> <p>17 A. I did not, but I provided the</p> <p>18 names that appear in this chart. So I</p> <p>19 presume that counsel drafted this chart</p> <p>20 based on the information that I gave them.</p> <p>21 Q. Okay. Did they -- do you know</p> <p>22 whether any criteria other than the number</p> <p>23 of claims went into deciding who went on</p> <p>24 this chart?</p> <p>25 MS. BROWN: And I would instruct</p>

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1 you to answer that only yes or no. Do
2 you know? Beyond that, I'll have a
3 privileged objection.
4 **THE WITNESS: Well, I know that**
5 **the firms that I provided are the firms**
6 **that have the most talc claims.**
7 BY MR. WINOGRAD:
8 Q. Okay. But I'm asking something
9 differently, and we'll just start with a
10 yes-or-no question.
11 Do you know whether there were
12 any other criteria that were used by
13 whoever drafted this document in
14 determining which law firms to put in this
15 chart other than your provision of a list
16 of claimants?
17 **A. I can't tell you anything other**
18 **than at the time that this list was**
19 **created, the information came from me as to**
20 **which firms had the most talc claims,**
21 **period.**
22 Q. And in your determining which --
23 in your determining how many claims a
24 particular law firm had, how did you do
25 that?

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1 **A. I knew how many filed claims they**
2 **had as of the date of the LTL bankruptcy**
3 **filing. And then if they were firms that I**
4 **was -- had spoken with for other reasons**
5 **and they provided me information about**
6 **their unfiled claims, I included that.**
7 **And most -- most firms with a**
8 **significant number of claims have provided**
9 **that information to me, again, in the**
10 **context of resolution discussions.**
11 Q. Okay. And so you mentioned filed
12 claims. Is that roughly the same 38,000
13 ovarian cancer claims and, you know, 400 or
14 so mesothelioma claims that were filed as
15 of the first petition in this case?
16 **A. Are you asking me is that how**
17 **many filed claims I was looking at?**
18 Q. Yes.
19 **A. Yes.**
20 Q. And with respect to the unfiled
21 claims, you mentioned you got information
22 from law firms that provided it to you.
23 How did you figure out which law
24 firms to ask for that information?
25 **A. So, first of all, I didn't**

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1 **necessarily ask them for it. Many of them**
2 **wanted me to know, because they knew that**
3 **my role here was to discuss, you know,**
4 **potential resolution paths.**
5 **And this is information I've**
6 **gained over the past years including before**
7 **the LTL filing.**
8 Q. Okay. And in terms of
9 calculating the number of claims by a
10 particular law firm, we'll talk about it
11 when we -- a little bit later on.
12 Are you aware of what are known
13 as plan support agreements in connection
14 with the talc claims?
15 **A. Yes.**
16 Q. And some of those plan support
17 agreements attached a list of claimants,
18 correct?
19 **A. Right.**
20 Q. Is that the information you got
21 with respect to -- is that the only
22 information you got with respect to a
23 number of claimants for a given law firm?
24 **A. Not sure I understand your**
25 **question, but I think the answer is no.**

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1 Q. Okay. How else did you figure
2 out how many claimants a law firm had?
3 **A. I think I just said that in the**
4 **context of resolution discussions or**
5 **potential resolution discussions over the**
6 **past three years, information was provided**
7 **to me about the -- what I'll call the**
8 **inventories of the firms.**
9 **And, you know, firms had**
10 **significant inventories of unfiled claims,**
11 **because for a number of reasons, including**
12 **that some plaintiffs firms -- a lot of**
13 **plaintiffs firms have taken the view that**
14 **the statute of limitations didn't start**
15 **running on their claims until talc was no**
16 **longer sold in the United States.**
17 Q. Okay. So I want to talk about
18 this -- the information that you said where
19 you were given information about the
20 inventory of claims.
21 Setting aside the information
22 that is reflected in the list of claims
23 attached to PSAs, are there -- were there
24 any law firms that came to you and provided
25 you with inventory -- information on their

<p style="text-align: right;">Page 41</p> <p>1 inventory of talc claims without providing 2 you an attachment to a PSA? 3 A. That is a difficult question to 4 answer, because we're talking about a 5 three-year period. The PSAs and the 6 exhibits to them, that's a very recent 7 thing, so I'm not sure I understood your 8 question. 9 Q. Okay. Let me go back to the 10 exhibit in front of you. 11 A. Yes. 12 Q. This list -- and, again, I don't 13 want the substance. 14 But how did you -- how did you 15 communicate to -- who did you communicate 16 the information on number of claims to in 17 order for this chart to be generated? 18 A. It was a lawyer. 19 Q. Working for? 20 A. Johnson & Johnson. 21 Q. Okay. Without going into the 22 substance of that communication, did you 23 communicate it to that lawyer in writing? 24 A. I believe I did by phone. 25 Q. So you, by phone, communicated</p>	<p style="text-align: right;">Page 43</p> <p>1 A. Sure. 2 Q. -- in here. And I'm just -- you 3 know, there's a firm that says, you know -- 4 let me ask it differently. 5 Do you recall whether there were 6 any law firms for whom you indicated the 7 number of talc claims you believe they had 8 for a law firm that did not provide you 9 with a written list of claimants? 10 MS. BROWN: I object as vague. 11 I'm not sure I understand the question. 12 THE WITNESS: Let me -- let me 13 rephrase it and see if you're -- 14 BY MR. WINOGRAD: 15 Q. Sure. 16 A. So I already testified that I 17 didn't provide anybody -- the person who 18 put this together or who I presume put it 19 together did not have information on how 20 many claims there were, because they were 21 relying on me. I gave the information. I 22 didn't say how many claims there were. 23 If you're saying, for example, 24 Arnold & Itkin who -- actually, now I'm 25 just confused.</p>
<p style="text-align: right;">Page 42</p> <p>1 law firm by law firm how many claims you 2 believe those law firms had? 3 A. I did not communicate how many 4 claims they had. I simply listed the 5 firms. 6 Q. You listed the firms without 7 providing -- has -- so you listed the firms 8 in order of the number of claims that they 9 had? 10 A. I thought I did, although that's 11 not the order in which it appears here. So 12 it seems that somebody alphabetized it. 13 Q. But you believe you provided it 14 in order from largest number of claims 15 down? 16 A. I can't remember. 17 Q. Okay. Did you provide any -- 18 without going into the substance, did you 19 provide any written information on the 20 number of claims these law firms had to 21 whomever was drafting this document? 22 A. I recall speaking to her by 23 phone. There's no writing. 24 Q. I want to take an example of a 25 firm --</p>	<p style="text-align: right;">Page 44</p> <p>1 Q. All right. So you said law firm 2 X is number 10 on my list. They have -- 3 you went through a list of law firms -- 4 A. Yes. 5 Q. -- based on the number of claims 6 they had, correct? 7 A. Yes. 8 Q. At some point did you come to a 9 law firm, call it number 10 on the list, 10 where you -- to your knowledge, forget 11 about the information that was conveyed, 12 where that -- where the number of claims 13 that you were attributing to that law firm 14 was based on something other than a written 15 list of claimants that you had received 16 from that law firm? 17 A. Yes. 18 Q. Okay. So were there times where 19 there are law firms on this list where the 20 number of claims you were attributing to 21 them was based on a representation by the 22 law firm that they represent Y number of 23 claims? 24 A. Yes. 25 Q. When you considered the number of</p>

<p style="text-align: right;">Page 121</p> <p>1 A. So, to the best of my knowledge, 2 I think some firms added that, but that was 3 not requested by me. 4 Q. So you specifically requested the 5 other columns? 6 A. I did. 7 Q. And those are just the "Name," 8 "Date of Birth" and last four of Social? 9 A. And the "Claim Type." That was 10 requested by me. I thought you were asking 11 about the date of death. I didn't ask for 12 that. 13 Q. You didn't ask for the date of 14 death? 15 A. No. 16 Q. But some of the exhibits have 17 claim type and some do not. I can show you 18 an example, if you would like, of one that 19 does not. 20 A. I'll take your word for it. I 21 can't explain to you why they wouldn't. I 22 requested that it would be filled in. 23 Q. Okay. Did you know that some did 24 not come with claim type? 25 A. No.</p>	<p style="text-align: right;">Page 123</p> <p>1 MS. BROWN: Objection. Vague. 2 THE WITNESS: So I know that the 3 lawyers who signed the PSAs were 4 instructed by me, and I know that they 5 followed the instruction to only list 6 claims for which they were the primary 7 lawyer and had the authority. 8 BY MR. WINOGRAD: 9 Q. When -- did you ask any of the 10 plaintiffs law firms to see engagement 11 letters for all of their claimants? 12 A. So I did not. Again, this is a 13 question where you're asking if I break the 14 ethical rules. I did not. 15 Q. Did you ask whether complaints 16 were drafted for the unfilled claims? 17 A. I did not, Mr. Winograd. But as 18 you know, in the MDL, there is a short form 19 complaint. It's very simple. It's just a 20 template that people fill in. 21 I imagine that they would have 22 done so if they needed to to timely file 23 them. 24 Q. Do you know whether any -- strike 25 that.</p>
<p style="text-align: right;">Page 122</p> <p>1 Q. And what were the options -- did 2 you provide folks with options in terms of 3 terms to use for claim type? 4 A. Yes. I believe my partner 5 provided it as a dropdown -- 6 Q. Okay. 7 A. -- where they could select 8 gynecologic cancer, mesothelioma or 9 governmental claim, the three types in the 10 term sheet. 11 Q. Are you aware of any counsel 12 representing talc claimants who have 13 co-counsel in connection with those talc 14 claimants? 15 A. Well, yes. We heard yesterday I 16 think that several thousand of 17 Mr. Birchfield's claims and the other 18 clients of yours are co-counsel with 19 Mr. Pulaski. 20 Q. Okay. How do you know with 21 respect to -- strike that. 22 Do you know with respect to the 23 claim lists that were provided, attached 24 the PSAs, that there was no double counting 25 amongst -- amongst co-counsel?</p>	<p style="text-align: right;">Page 124</p> <p>1 Do you know whether the 2 plaintiffs law firms that signed the PSAs 3 have, in fact, drafted complaints for their 4 unfilled cases? 5 MS. BROWN: Asked and answered. 6 THE WITNESS: Mr. Winograd, I 7 don't know. But I know them all to be 8 very good lawyers despite what your 9 clients have said about them in the 10 media. And I know that they can draft 11 complaints and have in other cases. 12 I mean, for example, Mr. Onder 13 filed 11,000 cases. He's got the most 14 cases filed in the litigation, and he's 15 in support of the plan. 16 BY MR. WINOGRAD: 17 Q. Do you know whether the 18 plaintiffs law firms have a pathology 19 report for each of the claimants they 20 represented to you that they have? 21 A. I do not. But I know that the 22 same is -- same to be for your clients, 23 that they don't have pathology reports for 24 all of them. 25 Q. Again, I'm asking very simple</p>

<p style="text-align: right;">Page 125</p> <p>1 yes-or-no questions. Please refrain 2 from -- 3 MS. BROWN: No, he's going to -- 4 BY MR. WINOGRAD: 5 Q. Please refrain from -- 6 MS. BROWN: No. 7 BY MR. WINOGRAD: 8 Q. -- the ad hominem statements. 9 MS. BROWN: Please don't -- 10 THE WITNESS: As you -- 11 MS. BROWN: -- instruct our 12 witness. He's answering the questions 13 truthfully and accurately. You can ask 14 questions and he will answer. 15 MR. SATTERLEY: Please, 16 Counsel -- 17 MS. BROWN: No -- 18 (Simultaneous unreportable 19 crosstalk occurs among parties.) 20 MS. BROWN: No, there's going to 21 be no instructions to my witness. He's 22 here to answer questions -- 23 MR. SATTERLEY: He's not. 24 MS. BROWN: -- not take 25 instructions from anybody else.</p>	<p style="text-align: right;">Page 127</p> <p>1 clients where they have much missing 2 information. 3 I believe that the claims in 4 support of the plan are real claims. And 5 you can see their identity in the claim 6 lists and their claims that will ultimately 7 be eligible to vote and will vote in favor 8 of the plan. 9 Q. Did you look line by line through 10 all of the attachments? 11 A. I did not. 12 Q. Did somebody at your law firm? 13 A. For some of the larger ones, 14 probably not. For some of the smaller 15 ones, they probably did. 16 Q. Do you know whether the law firms 17 that signed the PSAs obtained written 18 consent from their clients to sign them? 19 A. That would be a question for 20 them. 21 Q. I'm asking whether you know. 22 A. I do not know whether they 23 obtained consent to sign them. I don't 24 know whether your clients obtained consent 25 from their clients to come out against the</p>
<p style="text-align: right;">Page 126</p> <p>1 MR. WINOGRAD: I am asking him -- 2 then you can instruct your own client. 3 I'm asking him to stop with the 4 speeches -- 5 MS. BROWN: No. 6 MR. WINOGRAD: -- and the 7 nonresponsive parts. 8 MS. BROWN: You can't do that. 9 MR. WINOGRAD: The objection's on 10 the record -- 11 (Simultaneous unreportable 12 crosstalk occurs among parties.) 13 MR. WINOGRAD: Let's move on. 14 MR. SATTERLEY: We have time 15 limits here. Quit arguing. 16 MR. WINOGRAD: Let's move on. 17 BY MR. WINOGRAD: 18 Q. Do you know whether the 19 plaintiffs law firms who signed the PSAs 20 have a medical history for each of their 21 purported claimants? 22 A. Mr. Winograd, I do not know. 23 But, again, I would direct you to the 24 information that we do have from the claims 25 in the MDL, which includes those from your</p>	<p style="text-align: right;">Page 128</p> <p>1 deal. 2 Q. Do you know -- do you know what, 3 if anything -- strike that. 4 Did any of the plaintiff law 5 firms tell you what they advised their 6 claimants with respect to obtaining any 7 purported consent to sign the PSAs? 8 A. That would be a breach of 9 attorney-client privilege if they did, and 10 these are all lawyers who don't do that. 11 Q. I want to focus on four firms who 12 signed the PSAs. Let's just start with 13 Mr. Watts' firm, Watts Guerra. 14 A. Sure. 15 Q. Let me just ask you with respect 16 to four firms. Watts, Guerra; Ferrer 17 Poirot, Pulaski's firm and McDonald 18 Worley -- 19 A. Yes. 20 Q. -- do you know whether any of 21 those law firms have signed -- I'm sorry. 22 Do you know if any of those firms 23 have filed a single claim versus J&J or LTL 24 in the talc litigation? 25 A. So I can tell you that a large</p>

<p style="text-align: right;">Page 137</p> <p>1 repeatedly. I'm going to try it again. 2 And I'm asking very simple questions -- 3 MS. RICHENDERFER: Counsel, 4 Counsel, this is Linda Richenderfer 5 from the Trustee Office. Sir, there 6 are many of us that want to ask 7 questions of this witness including 8 myself. 9 So I would just ask that we be 10 mindful of the time. I think we've 11 been going about two hours now. That's 12 a rough estimate on my part. 13 MR. WINOGRAD: We are -- we 14 are -- 15 MS. RICHENDERFER: So I would -- 16 I know there are a lot of others on 17 this -- both Mr. Satterley who's 18 sitting in the room there and others 19 who want to ask questions. So I would 20 just please ask you to keep that in 21 mind. 22 MR. WINOGRAD: Counsel, we are 23 very close to finishing, which is why 24 I'm trying to resolve this before we go 25 into a break.</p>	<p style="text-align: right;">Page 139</p> <p>1 THE VIDEOGRAPHER: We are going 2 off the record. 3 The time is 3:28 p.m. 4 (Whereupon, a recess was taken at 5 3:28 p.m.) 6 THE VIDEOGRAPHER: We are back on 7 the record. 8 The time is 3:44 p.m. 9 MR. WINOGRAD: I have no further 10 questions at the moment, but I reserve 11 the right to ask further questions at 12 the end. But I'll turn it over. 13 Thank you, Mr. Murdica. 14 EXAMINATION 15 BY MR. MAIMAN: 16 Q. Good afternoon, Mr. Murdica. 17 A. Good afternoon, Mr. Maiman. 18 Q. My name is Moshe Maiman. You 19 know that I represent plaintiffs who have 20 filed lawsuits against Johnson & Johnson, 21 correct? 22 A. I do. 23 Q. I would like to start my 24 questions of you with Exhibit 5, which I 25 think is the last exhibit you had in front</p>
<p style="text-align: right;">Page 138</p> <p>1 MR. SATTERLEY: And you are the 2 first attorney. 3 Go ahead. But if you guys want 4 to take a break and cool down -- 5 MS. BROWN: Let's just keep 6 going. Ask a question, he'll give you 7 an answer. 8 BY MR. WINOGRAD: 9 Q. Are there any law firms who 10 signed PSAs who have current claims against 11 Johnson & Johnson unrelated to talc? 12 MS. BROWN: Objection. Calls for 13 speculation. Lacks foundation. 14 THE WITNESS: You are asking me 15 if the lawyers who signed PSAs have 16 sued Johnson & Johnson in other cases 17 other than talc. 18 BY MR. WINOGRAD: 19 Q. That are pending at the moment, 20 yes. 21 A. Yes. Probably all of them. And 22 all of your clients, for that matter. 23 Q. I would... 24 MR. WINOGRAD: Let's go off the 25 record.</p>	<p style="text-align: right;">Page 140</p> <p>1 of you. That's the PSA that I believe was 2 signed by Mr. Onder? 3 A. Yes. 4 Q. Do you have that? 5 A. Yes. 6 Q. Okay. The first question that I 7 have for you is on the -- with regard to 8 the language on the first page, which is 9 numbered 3. "Counsel on behalf of 10 talc-related personal injury claimants (the 11 'Talc Claimants') identified by full name, 12 date of birth and last four digits of their 13 Social Security number in Exhibit A (the 14 'Consenting Talc Claimant Counsel')." A. 15 Do you see that? 16 A. That -- which page is it on? 17 MS. BROWN: First page, number 3. 18 THE WITNESS: Oh, I'm sorry. The 19 wrong page. 20 BY MR. MAIMAN: 21 Q. Number 3. 22 A. Yes, I see number 3. I turned to 23 page 3. I apologize, Mr. Maiman. 24 Q. And you noted that when you 25 looked at the chart of Exhibit A, it has an</p>

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1 additional field which is the date of
2 death, if applicable, correct?
3 **A. I -- I saw that today for the**
4 **first time.**
5 Q. Okay. In any event, the four
6 fields which -- the fields which deal with
7 name, full name, last name, first name,
8 date of birth, last four digits of Social
9 Security number, those were the fields that
10 you wanted to be filled out, correct?
11 **A. Those are what I requested.**
12 Q. Okay. Did you also -- you did
13 not request the date of death, if
14 applicable, true?
15 **A. I did not.**
16 Q. And did you request claim type,
17 the field for claim type?
18 **A. I did. I added that probably**
19 **after create -- after writing these words**
20 **on the first page, because I wanted to know**
21 **how many -- I wanted to be able to know how**
22 **many mesos versus OCs or gynecologic we had**
23 **in our support.**
24 Q. Understood.
25 Did anybody who signed a PSA

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1 represent what you refer to in here as
2 governmental claims?
3 **A. No.**
4 Q. Okay. The choice of the dropdown
5 for claim type --
6 **A. Yes.**
7 Q. -- gynecological cancer,
8 mesothelioma or governmental claim, were
9 those three options the options that you
10 gave, or somebody else decided to limit it
11 to those options?
12 **A. I asked -- I don't have any**
13 **sophistication with Excel, so I asked my**
14 **partner to do that. But those were my**
15 **words.**
16 Q. Okay. Understood. Thank you
17 very much.
18 So if we look at the chart, last
19 name, first name, date of birth, Social
20 Security last four and claim type, those
21 were the fields of information you
22 required, correct?
23 **A. That's what I requested.**
24 Q. Okay. Let's -- I forgot to ask
25 the most important question first.

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1 Will you agree to appear at the
2 hearing in front of Judge Kaplan set for
3 Tuesday without the necessity of us
4 subpoenaing you to be there?
5 MS. BROWN: Well, you can discuss
6 that with Mr. Murdica's counsel. I'm
7 not going to let him answer that. He's
8 not gonna -- he's gonna need to talk to
9 his counsel about that, about whether
10 you need a subpoena, whether he'll do
11 it.
12 MR. MAIMAN: He can answer that
13 he needs to ask his attorneys. You
14 don't need to answer that.
15 MS. BROWN: Well, I'm going to
16 instruct him not to answer that --
17 MR. MAIMAN: Okay.
18 MS. BROWN: -- because it
19 implicates --
20 MR. SATTERLEY: Can we get an
21 agreement --
22 BY MR. MAIMAN:
23 Q. Then we'll get a subpoena, sir,
24 I'm sorry, but you'll be served. Not a
25 problem.

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1 MR. SATTERLEY: I mean, can you
2 just agree that you'll appear on
3 Tuesday? You've been at a lot of
4 hearings.
5 MS. BROWN: No. We're going to
6 talk about it and get back to you.
7 MR. MAIMAN: No, you're not going
8 to get back to me. He's going to be
9 served with a subpoena.
10 And I apologize for that, sir.
11 BY MR. MAIMAN:
12 Q. You've made reference when
13 Mr. Winograd was asking you questions to
14 his clients.
15 Do you recall making references
16 like that?
17 **A. Yes.**
18 Q. Am I his client? Did you include
19 me or my firm when you were referring to
20 his clients?
21 **A. I believe his clients are the TCC**
22 **members.**
23 Q. I asked you, did you -- when you
24 made reference to Mr. Winograd's clients,
25 were you referring to me or my firm?

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1 **A. I'm trying to -- I referred to**
2 **his clients several times. I don't think**
3 **that I had you in mind specifically as to**
4 **any of the things that I was referencing.**
5 Q. Did you have Mr. Satterley or his
6 firm in mind when you referred to
7 Mr. Winograd's clients?
8 **A. Sitting here right now, I don't**
9 **think I was thinking of a specific**
10 **reference with respect to Mr. Satterley.**
11 Q. Okay. Let's take a look at
12 page 2 of Exhibit 5, PSA. And I'm talking
13 about the second whereas clause. Tell me
14 when you're there.
15 **A. I'm on page 2, the second whereas**
16 **clause.**
17 Q. It says, "Whereas, pursuant to
18 the supported plan terms, the parties agree
19 to resolve all present and future talc
20 claims, personal injury and governmental
21 entity claims against all debtor-related
22 parties for a total contribution of the
23 debtor not to exceed the present value of
24 \$8,900,000,000."
25 Did I read that correctly?

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1 **A. I think so.**
2 Q. When you negotiated this PSA with
3 the plaintiffs attorneys, the meeting of
4 the minds between you, it was clear to you
5 that no lawyer who signed a PSA had the
6 authority to settle or resolve all present
7 and future claims, correct?
8 MS. BROWN: Objection. Calls for
9 speculation.
10 **THE WITNESS: If you mean that**
11 **because the FCR represents future**
12 **claimants, I would agree with you.**
13 BY MR. MAIMAN:
14 Q. Well, Mr. Watts by himself could
15 not resolve all present and future claims
16 against the debtor, correct?
17 **A. No. That's why there's gonna be**
18 **a vote on this.**
19 Q. Whether or not there's a vote on
20 it, you'll agree with me Mr. Watts could
21 not agree on behalf of clients he doesn't
22 represent, correct?
23 **A. I think you're asking me a basic**
24 **legal principle. What Mr. Watts can do is**
25 **he can represent to me that his claimants,**

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1 **when this is put for a vote, are going to**
2 **vote for this plan.**
3 Q. But he can't represent or commit
4 with regard to any other lawyers' clients,
5 true?
6 **A. As a basic legal principle, I**
7 **think that's true.**
8 Q. Okay. So that -- you will agree
9 with me that you knew when you finalized
10 this PSA that no lawyer who signed it had
11 authority to resolve all present and future
12 talc claims, true?
13 **A. So, Mr. Maiman, what -- I don't**
14 **know if I should be telling you what this**
15 **means, but I'll try to do it without**
16 **revealing any privileged information.**
17 MS. BROWN: Well, you shouldn't
18 be interpreting the document at all.
19 **THE WITNESS: Okay.**
20 MS. BROWN: If you can answer the
21 question without that, please do.
22 **THE WITNESS: Can you ask me**
23 **another question?**
24 BY MR. MAIMAN:
25 Q. Sure.

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1 You knew that no lawyer who
2 signed a PSA had authority to resolve all
3 present and future talc claims, true?
4 **A. I knew that the lawyers signing**
5 **the PSA were going -- their clients were**
6 **going to vote in favor of a plan for**
7 **\$8.9 billion present value that resolves**
8 **all talc liability. I did know that.**
9 MR. MAIMAN: Move to strike as
10 nonresponsive.
11 BY MR. MAIMAN:
12 Q. This was an agreement that was
13 reached between J&J, LTL and the attorneys
14 who signed, true?
15 **A. If that's a contract question, I**
16 **can't tell you more than the lawyers who**
17 **are in support of it and representing their**
18 **claimants are in support of it for the plan**
19 **as described herein.**
20 Q. Okay. Thank you.
21 Were you -- did you listen in or
22 watch Mr. Pulaski's deposition yesterday?
23 **A. Most of it.**
24 Q. Were you aware that he testified
25 under oath that he believed that his

<p style="text-align: right;">Page 149</p> <p>1 obligations under the PSA that he signed 2 was that when a plan is formally filed, 3 that in all likelihood, he would propose to 4 his firm's clients that they support the 5 plan? Do you recall him saying that? 6 A. I think I was on for that part. 7 Q. And that is a representation that 8 he made to you in the course of your 9 discussions with him, true? 10 A. Mr. Pulaski's client -- 11 Mr. Pulaski's claimants will vote in favor 12 of the plan described in this document. 13 Q. Well, you're not Mr. Pulaski's 14 client, are you? 15 A. I am not Mr. Pulaski's client. 16 Q. Okay. Mr. Pulaski represented to 17 you that he will, as he testified yesterday 18 under oath, in all likelihood propose to 19 his firm's clients that they support the 20 plan. That's what he represented to you, 21 true? 22 A. So what I would say about that is 23 that Mr. Pulaski will file ethical -- 24 follow his ethical obligations as it 25 relates to how he deals with his own</p>	<p style="text-align: right;">Page 151</p> <p>1 any of the signatories to the PSA, did you 2 expect their cancer victim clients to do 3 that? 4 A. So this was about -- as I read 5 it, it's the parties to the agreement 6 agreeing to use commercially reasonable 7 efforts to confirm and consummate the plan. 8 This is a commitment from both sides to 9 move forward with the plan -- 10 Q. Can you -- 11 A. -- as described. 12 Q. Commitments by LTL and J&J on one 13 side, true? 14 A. Yeah, I guess -- I guess 15 technically. This is a documentation of 16 agreement for both sides to use their best 17 efforts, which includes me using my best 18 efforts as well. 19 Q. You would consider yourself on 20 the J&J side of the agreement, true? 21 A. I'm counsel for J&J. 22 Q. Okay. You're not counsel for any 23 of the cancer victim claimants, true? 24 A. I am not. I am not. 25 Q. The other side would be the</p>
<p style="text-align: right;">Page 150</p> <p>1 clients. 2 But I have a course of dealing 3 with Mr. Pulaski that dates back over a 4 decade. And when he tells me that his 5 claimants will support a settlement, every 6 single time they all have. 7 Q. Okay. With regard to -- if we 8 look at page 3, starting on page 3 and 9 going through page 4, A through K, I would 10 like to talk to you about those terms, 11 okay? 12 A. Okay. 13 Q. These are terms with regard to 14 commitments that were made by the 15 signatories to this plan either to do 16 something or not do something, fair? 17 A. You can describe them how you 18 like. They speak for themselves. 19 Q. Well, number 1, to use 20 commercially reasonable efforts to confirm 21 and consummate the Chapter 11 plan. 22 Do you see that? 23 A. I do. 24 Q. When you entered into this 25 agreement or finalized this agreement with</p>	<p style="text-align: right;">Page 152</p> <p>1 lawyers who signed, true? 2 And this obligates them to use 3 commercially reasonable efforts to confirm 4 and consummate the Chapter 11 plan, true? 5 MS. BROWN: Mr. Murdica, you can 6 confirm what's written in this 7 document, but you should not be 8 interpreting it as it implicates your 9 legal impressions. And I'll object 10 under privilege. 11 BY MR. MAIMAN: 12 Q. I'm not asking you to interpret. 13 I'm asking you for the meeting of the minds 14 between you and the lawyers who you 15 negotiated this deal with. 16 MS. BROWN: Then I object as 17 speculation. He can testify to his -- 18 MR. MAIMAN: His meeting of the 19 minds -- 20 MS. BROWN: -- what he -- well -- 21 THE WITNESS: I don't know how 22 they viewed this term. You can ask 23 them. 24 What I will tell you is that 25 there is a meeting of the minds that</p>

<p style="text-align: right;">Page 153</p> <p>1 the lawyers who signed the plan support 2 agreement, and many more, are going to 3 vote for a plan that is consistent with 4 this agreement. 5 BY MR. MAIMAN: 6 Q. Okay. I'm talking about 7 number A, because number A does not talk 8 about only voting. It's using commercially 9 reasonable efforts to confirm and 10 consummate the Chapter 11 plan. 11 Do you see that? 12 A. I see the words. 13 Q. And under this, the lawyer who 14 signed this is binding themselves to do so, 15 true? 16 MS. BROWN: I object. 17 BY MR. MAIMAN: 18 Q. That's the way you looked at it 19 when you drafted it? 20 A. We can argue about it. What I'm 21 telling you is this document and the terms 22 in it are meant to document that me and the 23 lawyers who are representing claimants who 24 signed PSAs are going to be on this -- on 25 this same page here with regard to the</p>	<p style="text-align: right;">Page 155</p> <p>1 When you put this clause in as 2 the drafter of this document, you did not 3 intend to deny any cancer victim claimant 4 their free vote on whether or not to object 5 to the plan, true? 6 MS. BROWN: Objection. Asked and 7 answered. 8 MR. MAIMAN: No, it wasn't 9 answered. 10 BY MR. MAIMAN: 11 Q. But go ahead. 12 A. I can't answer it any better than 13 I did, Mr. Maiman. The point was that the 14 lawyers who signed the PSA would not do 15 what you are doing, which is trying to 16 stand in between your claimants and their 17 right to vote, which is what you're doing 18 now by this whole proceeding to challenge 19 the ability for your clients to vote on a 20 historic plan. 21 MR. MAIMAN: Move to strike as 22 nonresponsive. 23 BY MR. MAIMAN: 24 Q. If one of the cancer claimants -- 25 withdrawn.</p>
<p style="text-align: right;">Page 154</p> <p>1 terms of this plan and move it forward to a 2 vote so that their claimants can exercise 3 their free will and decide whether or not 4 they want to take a historic settlement. 5 Q. Thank you. 6 If you look at page 3 H. "Not to 7 object to, delay, impede or take any other 8 action to interfere with acceptance, 9 confirmation or implementation of the 10 Chapter 11 plan." 11 Do you see that? 12 A. I do see that. 13 Q. It was not your intent when you 14 put this clause in to deny any cancer 15 victim claimant the right to vote no, true? 16 A. What this meant, Mr. Maiman, is 17 that they wouldn't do what you're doing 18 which is trying to get in the way of the 19 clients exercising their free will to vote. 20 That's what they're saying, they're not 21 going to do that. 22 MR. MAIMAN: Objection. Move to 23 strike. Nonresponsive. 24 BY MR. MAIMAN: 25 Q. Let me ask you again.</p>	<p style="text-align: right;">Page 156</p> <p>1 The term sheet, which is 2 Exhibit 3, divides the talc claims into 3 three types: ovarian cancer, mesothelioma 4 and governmental claims, correct? 5 A. We talked about that earlier. 6 Q. That's correct? 7 A. Yes. My testimony earlier, yes. 8 Q. Okay. And within those three 9 type of talc claims, the claimants are 10 divided into existing and future claimants, 11 true? 12 A. You're on Exhibit 3? 13 Q. I'm on Exhibit 3, starting on 14 page 3. 15 A. So I'm seeing -- are you on 2(a), 16 existing and future ovarian? 17 Q. 2(a), (b) and (c). 18 A. Okay. Would you ask your 19 question again, please? 20 Q. Sure. For each of the three type 21 of talc claimants, the term sheet further 22 divides them into existing and future 23 claimants, true? 24 A. That's why I was confused. So 25 the term sheet talks about existing and</p>